

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

UNITED STATES OF AMERICA

v.

DAMON DOCK, SR.,

Defendant.

)
)
) Case No. 1:11CR00026
)

ORDER

)
)
) By: James P. Jones
) United States District Judge
)

The defendant, Damon Dock, Sr., previously submitted a request letter asking for appointment of counsel to assist him in seeking relief under 28 U.S.C. § 2255. (ECF No. 389.) The court construed Dock's letter conditionally as a Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255. The court notified Dock of his option to object to this construction, or to elect to proceed under § 2255 by filing a properly executed § 2255 motion. *See Castro v. United States*, 540 U.S. 375 (2003). The court also notified Dock that failure to comply with the order, either by objecting or by submitting a proper § 2255 motion, the conditionally filed § 2255 motion would be dismissed without prejudice.

Dock's response time has elapsed and he has had no further communication with the court. Because he has neither objected nor adopted the conditional

construction of his letter as a § 2255 motion, it is **ORDERED** that the § 2255 action (ECF No. 389) is DISMISSED WITHOUT PREJUDICE and stricken from the active docket of the court. Based upon the court's finding that the defendant has not made the requisite showing of denial of a substantial right, a certificate of appealability is DENIED.

The clerk will send a copy of this order to the defendant.

ENTER: March 4, 2014

/s/ James P. Jones
United States District Judge